

REMARKS

Favorable reconsideration and allowance of this application are requested.

I. Personal Interview With Examiner

At the outset, the applicants' undersigned attorney wishes to express his appreciation to the Examiner for the time and courtesies extended during the personal interview of June 5, 2007. It is believed that the interview materially advanced prosecution of the subject application as the Examiner's interpretation of the applied patent to Bonutti et al (USP 7,094,251) was clarified. In this regard, the Interview Summary record is believed to reflect accurately the substance of the interview, although some reference will be additionally made to the same in the discussion which follows.

II Filing of Request for Continued Examination

As a procedural note, the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the March 30, 2007 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

III. Discussion of Claim Amendments

By way of the amendment instructions above, independent claim 1 has been clarified with respect to the positioning of the first and second rings. Specifically, claim 1 now recites that the second fixing plate is positionable into contact with the bone part to be fixed while the first fixing plate is positioned in stacked relationship to the second fixing plate when positioned against the bone part to be fixed. Support for such clarifying amendments may be found in the originally filed specification at page 2, lines 19-24 as well as Figs. 1-6.

Claim 6 has been amended so as to emphasize that the second fixing plate is positioned in contact with the bone parts to be fixed and that the first fixing plate is in a stacked position on top of the second fixing plate. The amendments to claim 6 are based on the same specification support provisions as noted immediately above.

Claims 15-17 are new and are based on the disclosure appearing at page 4, lines 6-14.

Thus, upon entry of the present amendment, claims 1-17 will be pending herein for which favorable reconsideration and allowance are solicited.

IV. Response to Substantive Issues

The only substantive issue to be resolved in this application is the Examiner's rejection of prior claims 1-14 under 35 USC §102(e) as allegedly anticipated by Bonutti et al. As will become evident from the following discussion, Bonutti et al fails to anticipate or render obvious the presently claimed invention.

As an aid to this discussion, applicant's undersigned attorney has attached as Exhibit A a color-coded copy of the amended version of claim 1 above which highlights in different colors respectively different parts of the trajectory followed by the surgical cable. Exhibits B and C respectively represented color-coded versions of Figs. 1 and 4 of the present invention which depict the manner in which the applicants' amended claim 1 may be read thereon. And finally, Exhibit D represents a color-coded version of modified Figs. 22-23 in Bonutti et al showing the Examiner's interpretation of the same as presently understood by the undersigned. For greater ease of comparison, accompanying Exhibit D has also been annotated to include reference numerals commensurate to those employed in the present application.

Significantly, it must be noted at the outset that the claimed trajectory parts are those associated with the surgical cable (noted by reference numeral 16), and **not** to

any structural component part of the claimed first and second rings.¹ In an attempt to read the suture trajectory thereof onto the presently claimed invention, the Examiner has in essence amalgamated the disclosure of Figs. 22 and 23 and inverted the same as compared to that depicted. Such an amalgamated inverted version of Bonutti et al's Figs. 22 and 23 is therefore what has been presented as Exhibit D.

Immediate problems arise when one attempts to read the disclosure of Bonutti et al onto independent claim 1. For example, using the Examiner's interpretation of the Bonutti et al structures with reference to Exhibit D, it can be seen that while Bonutti et al may be said to disclose some form of suture trajectory that could arguably be considered commensurate with the trajectory parts labeled (j), (a), (b), (c) and (e), there is no disclosure or suggestion of a trajectory part corresponding to those parts labeled (d) and (f).

In this regard, according to Bonutti et al the trajectory part corresponding to (d) of the present invention (i.e., that part colored purple in Exhibits A-D) does **not** run "through the **second** central hold of the **second** ring" as required by claim 1 herein. Instead, it runs through what the Examiner has interpreted to be the "first central hole" of the "first ring" of Bonutti et al.

Similarly, using the Examiner's interpretation of Bonutti et al, it is noted that while the "one end" of part (d) may arguably be connected with the first radial part (e) running through the gap established between the first and second rings (i.e., that part colored orange in Exhibits A-D), the "other end" of part (d) is **not** connected to a "second radial trajectory part running **underneath the second ring**" (i.e., that part colored brown in

¹ During the personal interview of June 5, 2007, it became apparent that the Examiner may have been reading various component parts of the trajectory (e.g., "downwardly trajectory part", "first radial trajectory part", "second radial trajectory part", "inner trajectory part" and the like). Such trajectory "parts" are of course those of the "at least one of the first and second ends **of the surgical cable** and **not** structures associated with the first and second rings.

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Exhibits A-D) as required in claim 1. Instead, Bonutti et al suggest that such a suture trajectory part extends **above** (not below) the **first** (not the second) ring.

In view of the above therefore applicants suggest that Bonutti et al cannot anticipate or render obvious the present invention as claimed herein. Withdrawal of the rejection advanced under 35 USC §102(e) is therefore in order.

V. Conclusion

Every effort has been made to advance prosecution of this application to allowance. Therefore, in view of the amendments and remarks above, applicants suggest that all claims are in condition for allowance and Official Notice of the same is solicited.

Should any small matters remain outstanding, the Examiner is encouraged to telephone the Applicants' undersigned attorney so that the same may be resolved without the need for an additional written action and reply.

An early and favorable reply on the merits is awaited.

Respectfully submitted,

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USSN 10/544,102 – Amended Version of Claim 1

1. (Currently Amended) Bone fixing device comprising:

- (I) a surgical cable having a first end and a second end, and
- (II) at least a first fixing plate and a second fixing plate respectively having first and second central holes and first and second rings surrounding said first and second holes, wherein each of the first and second fixing plates have an outer edge defining an outer circumference thereof and an inner edge defining a respective one of the first and second central holes,

the second fixing plate being positionable into contact with a bone part to be fixed
and the first fixing plate being in a stacked position on top of the second
fixing plate when positioned against the bone part to be fixed so as to
establish a gap therebetween such that the first and second central
holes at least partly overlap each other, wherein
each of the first and second ends of the cable is connected to the first and
second fixing plates, and wherein

at least one of the first and second ends of the cable follows a continuous
trajectory running from outside the outer edges underneath the second
ring and up to the second hole, the at least one end of the cable
thereafter bending upward into a first upward trajectory part running
through the second and the first holes, respectively, bending to an
outward trajectory part running across the first ring in a direction from its
inner edge toward its outer edge, bending to a downward trajectory part
outside at least the outer edge of the first ring running in a direction
opposite to the first upward trajectory part, bending to an inner trajectory
part running through the second central hole of the second ring, wherein
the inner trajectory part includes one and other ends, the one end
thereof being connected to a first radial trajectory part running through
the gap established between the first and second fixing plates and the
other end thereof being connected to a second radial trajectory part
running underneath the second ring.